

Law Offices of

OLIVER ZHOU

100 Bowery, Suite 300

New York, NY 10013

Tel: (212) 226-9442

Fax: (212) 226-9471

www.ozhoulaw.com

Email: ozhoulaw888@gmail.com

April 28, 2020

Member NY & NJ Bars

Of Counsel

David Harris

The Hon. Katherine Polk Failla
40 Foley Square, Courtroom 618
New York, NY 10007

MEMO ENDORSED

Re: Antolini v. N. Corporation et al
Case No.: 1:19-cv-07385 KPF

Dear Hon. Failla:

This firm has been retained to represent the defendants in connection with the matter referenced above.

We write to request an immediate stay of discovery in light of the Criminal Complaint filed by the United States Attorney General for the Southern District of New York, alleging that Mr. Finkelstein has initiated the filing of over three hundred (300) similar ADA lawsuits on behalf of individuals who neither retained nor authorized him to file these ADA legal actions on their behalf. Mr. Finkelstein is being charged with one count of mail fraud, one count of aggravated identity theft, two counts of obstruction of justice and two counts of false declarations before a court.

The Criminal Complaint alleges that contrary to Mr. Finkelstein's representations, the plaintiffs, purportedly represented by him, never attempted to visit the particular defendant's place of public accommodation, or experienced structural barriers preventing him or her from visiting. Instead Mr. Finkelstein stole their identities to file ADA lawsuits without their knowledge. Exhibit 1. Mr. Finkelstein collected over \$930,000.00 in attorney fees from settlements. Defendants believe that there now is a strong presumption that the Plaintiff herein, Mr. Antolini, (as well as the Defendants), are victims of Mr. Finkelstein's criminally fraudulent scheme. Our search report of the court filings indicates that Mr. Finkelstein has filed sixteen (16) other cases on behalf of Mr. Antolini in the Southern District of New York, and ten ADA cases in Eastern District of New York on behalf of other plaintiffs as of April 29, 2020. Exhibit 2. Judge Lorna G. Schofield dismissed Mr. Finkelstein's filing in Antolini v. 75 & 81 Orchard Associates, et al, 1:19-cv-05894 (LGS) because he failed to produce evidence sufficient to show that the plaintiff Mr. Antolini retained him in his ADA action. Exhibit 3.

We respectfully pray that the discovery of this matter be stayed and Mr. Finkelstein be required to immediately produce evidence sufficient to show that the Plaintiff Antolini retained Mr.

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Finkelstein to represent him in this action. If Mr. Finkelstein fails to provide this Court with such proof, Defendants respectfully ask that the Court, sua sponte, dismiss this action with prejudice. The defendants reserve the right to seek sanctions against Mr. Finkelstein in accordance with pertinent laws such as the Judiciary Law § 487.

Thank you for your courtesy and kind consideration.

Respectfully submitted,

/s/Oliver Zhou

OZ:wc

Enc.

Application DENIED. The Court notes that discovery in this matter has concluded, and thus there is nothing to stay. (Dkt. #36, 39). Further, Defendants have failed to identify a basis to doubt Plaintiff's counsel's representation, as an officer of the Court, that he has been retained by his client, Dino Antolino. The criminal complaint identified by Defendants' counsel does not pertain to this action. Defendants' counsel's suggestion of a presumption of criminal activity by Plaintiff's counsel, based solely on the fact of the prosecution, does not comport with the presumption of innocence afforded to criminal defendants.

Dated: May 5, 2020
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE